

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JERMAINE DOCKERY, et al.

PLAINTIFFS

VS.

No. 3:13-cv-326-WHB-JCG

MARSHALL L. FISHER, et al.

DEFENDANTS

**DEFENDANT'S REPLY IN SUPPORT OF MOTION
FOR PARTIAL SUMMARY JUDGMENT**

Defendant Mississippi Department of Corrections (“MDOC”)¹ file this reply in support of its partial summary-judgment motion:

For the reasons explained in the opening and contemporaneously filed reply memoranda, Defendant is entitled to partial summary judgment on Plaintiffs’ safety and security claims. In addition to the memoranda, Defendant offers the following additional exhibits in support:

Exhibit “A” – Dep. of Eldon Vail;

Exhibit “B” – MDOC Policy Nos. 16-11, 16-13, 16-15, 16-23, and MDOC Procedure Nos. 16-11-01, 16-12-01, 16-13-01, 16-13-02, 16-15.-01, and 16-23-01;

Exhibit “C” – MDOC Extraordinary Occurrence Report, EMCF-14-0054 (AG023850), with incident video being filed conventionally;

Exhibit “D” – MDOC Extraordinary Occurrence Report, EMCF-14-0125 (AG023893), with accompanying video filed conventionally;

Exhibit “E” – MDOC Extraordinary Occurrence Report, EMCF-14-0010 (AG023828), with accompanying video filed conventionally;

Exhibit “F” – Incident Report No. 15-0352 (Oct. 20, 2015);

¹ The named defendants are Pelicia Hall, Gloria Perry, Jerry Williams, and Richard McCarty in their official capacities, but persons sued in their official capacity “assume the identity of the government [entity] that employs them.” *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 109 (1989). Thus, the real party-in-interest is MDOC.

Exhibit "G" – Dep. of Christopher Dykes;

Exhibit "H" – Excerpt of Expert Report of Ken McGinnis and Tom Roth;

Exhibit "I" – Dep. of Michael Rice;

Exhibit "J" – Dep. of David Thumma;

Exhibit "K" – Dep. of Frank Shaw;

Exhibit "L" – MDOC Policy No. 16-19, Security Threat Group Management;

Exhibit "M" – MDOC Security Threat Group Validation Form, and MDOC Security Threat Group Participation Form;

Exhibit "N" – List of Current Locations as obtained through the MDOC's public website;

Exhibit "O" – Decl. of Warden Frank Shaw;

Exhibit "P" – 2016 K-9 Report and 2017 K-9 Report;

Exhibit "Q" – Contraband Reports through June 2017;

Exhibit "R" – Second Amendment to the Management and Operations Agreement Between MDOC and East Mississippi Correctional Facility Authority;

Exhibit "S" – Dep. of Tyeasa Evans;

Exhibit "T" – Decl. Michael Sessions;

Exhibit "U" – Excerpt from Maintenance Log Summary (indicating work order WO-1600024550 was completed on October 5, 2016);

Exhibit "V" – Mitchell – RVRs;

Exhibit "W" – Jan. 10, 2017, 1st Shift Roster at DEF-214949 (identifying Fire/Safety Lieutenant as "J. Wilson" and Facility Sanitation Officer as "J. Keaton");

Exhibit "X" – EMCF Quarterly Fire Alarm Test Log, February 2016 through June 2017, and EMCF Sprinkler Control Monthly-Quarterly Inspection, February 2016 through June 2017;

Exhibit "Y" – Dep. Ricky Thurman;

Exhibit "Z" – Dep. of Diane Skipworth;

Exhibit "AA" – Miss. Dept. of Health Inspection Details, Oct. 19, 2016 Inspection;

Exhibit "BB" – Food Service Information, Mississippi Department of Health Facility:

Char Restaurant, covering the period of time from Oct. 26, 2009, through September 7, 2016;

Exhibit "CC" – Dep. of Marilyn Braxton;

Exhibit "DD" – Composite of Menu Substitution Logs.

For the reasons set forth more fully in the accompanying [530] Motion, [531] Memorandum, and Rebuttal, Defendant respectfully requests this Court grant its [530] Motion for Partial Summary Judgment and enter judgment as a matter of law in Defendant's favor as to claims three, four, five, six, and seven of Plaintiffs' [1] Complaint.

Dated: September 29, 2017.

Respectfully submitted,

BY: JIM HOOD, ATTORNEY GENERAL
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CERTIFICATE OF SERVICE

I, *Gary E. Friedman*, certify that the foregoing document has been filed with the Clerk of Court using the Court's ECF system, which provides service of the foregoing to all counsel of record who have entered an appearance in this case as of the date below.

Dated: September 29, 2017.

/s/ Gary E. Friedman
Gary E. Friedman